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Legal Department

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September 22, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

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RE: *Docket #CS-97-151*

To the Secretary:

Enclosed is an original and six copies of the comments of The Dayton Power and Light Company in Docket #CS-97-151, *In the Matter of Implementation of Sections 703(e) of the Telecommunications Act of 1996.*

Sincerely,

Edward N. Rizer
Associate Counsel

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

IN THE MATTER OF IMPLEMENTATION) Docket No. CS-97-151
OF SECTIONS 703(e) OF THE)
TELECOMMUNICATIONS ACT OF 1996)

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INTRODUCTION

These comments are made on behalf of The Dayton Power and Light Company (DP&L), a gas and electric utility in West Central Ohio. While Ohio's public utility commission has presided over pole attachment issues in Ohio for nearly 20 years, DP&L believes it is appropriate for it to comment on selected issues in this docket.

OVERLASHING

The FCC has tentatively concluded that telecommunications carriers should be allowed to overlash their existing facilities with additional fiber when building out their systems. DP&L disagrees. Unless a utility has expressly consented to overlashing, then a revised pole attachment agreement should be entered into. Otherwise, the utility loses its ability to manage the use of its poles. The overlashing party would benefit from the pole in the same manner as other attachers and should therefore be required to pay the full pole attachment rate.

Engineering considerations, in particular, would be impacted. The additional strain on the pole creates unanticipated wear, and increases the possibility of weather related problems. Moreover, it has an impact on sag and the height of mid-span clearances.

ALLOCATION OF SAFETY SPACE

The FCC has tentatively concluded that the 40 inch safety space, which arises from a utility's requirement to comply with the NESC, should be assigned to the utility as part of its usable pole space. DP&L respectfully disagrees. The safety space, whether it arises from the NESC or not, exists to protect workers, including communications workers, from electric lines. In fact, it would be unnecessary if there were no communications facilities on the poles. Since revised section 224(e)(3) looks at the space actually "required" by attaching entities as opposed to the space "occupied," it is fair to consider a portion of the 40 inch safety space as part of the attachor's responsibility.

ALLOCATION OF OTHER THAN USABLE SPACE

The FCC proposes that attachments made by government agency be included in the calculation of the number of attaching entities. Here again, DP&L disagrees. Including government agency attachments in the number of attaching entities, means they would become a cost absorbed by the utility, since governments almost never pay for their attachments. These local government attachments are for a common good and often relate to public safety. Consequently, it makes no sense for utilities to absorb these costs. The space should be regarded as unusable and these costs should be paid jointly by all users of the pole as part of the local government's conditions for being able to be on the pole or provide service.

ALLOCATING THE COST OF USABLE SPACE

As mentioned earlier, the FCC's calculation of usable space should look at how much space an attaching entity requires rather than what it merely occupies. Thus attaching entities should be responsible for space allocations that are required in order to accommodate their attachments, including clearances and NESC requirements.

CONDUIT ATTACHMENT ISSUES

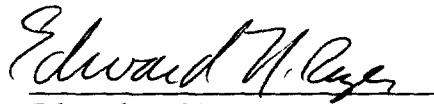
There are inherent differences in the safety and operational aspects of electric utility ducts and conduits and telecommunications ducts and conduits. Electric conduits have safety and reliability considerations that warrant special caution. Vaults and manholes are crowded, confined quarters containing extensive electric equipment and high voltage circuits. They pose grave potential dangers to untrained communications workers. Moreover, the presence of non-utility personnel in electric vaults and manholes requires special procedures and precautions that translate directly into additional cost to be borne by the utility and its customers.

The calculation of just and reasonable rates must consider the cost of the *conduit system* including ducts, conduit, cement or other encasement materials, vaults, manholes and other related equipment that allow for deployment of access to and maintenance of cable facilities.

CONCLUSION

The Dayton Power and Light Company appreciates the opportunity to comment on these proposed rules.

Respectfully,

A handwritten signature in cursive script, reading "Edward N. Rizer", written over a horizontal line.

Edward N. Rizer
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